

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

KIMBERLY GENEREUX,

Plaintiff,

v.

COLUMBIA SUSSEX CORPORATION
STARWOOD HOTELS & RESORTS
WORLDWIDE, INC., WESTIN HOTEL
MANAGEMENT L.P.

C.A. NO. 05-CV-10879-JLT

Defendants.

**DEFENDANTS' MOTION TO PRECLUDE
THE USE OF AN AUDIT REPORT**

Defendants move in limine to preclude the use of the Lashner Rush Associates 2002 Audit as it postdates the alleged incident and is therefore irrelevant.

Discussion

Federal Rule of Evidence 401 defines relevant evidence as "evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." The federal rules continue to provide that "[e]vidence which is not relevant is not admissible." Fed. R. Evid. 402.

Plaintiff alleges she was sexually assaulted on Friday, May 3, 2002. However, Plaintiff has attempted to introduce into the record an audit conducted on November 5, 2002 of The Westin Casuarina Resort and Spa (hereafter "The Westin Casuarina"), owned and operated by Galleon Beach Resort, Ltd. (hereafter "Galleon Beach"), to show, inter alia, that The Westin Casuarina allegedly violated certain suggestions and standards provided by Defendants Starwood and Westin to Galleon Beach. (See the Affidavit of Plaintiff's counsel, Mark Itzkowitz, at ¶ 3 and annexed thereto as Exhibit "KK"). This audit was conducted six months after Plaintiff's

alleged assault. It therefore bears no relevance on the conditions of The Westin Casuarina or the actions of Galleon Beach at the time of Plaintiff's alleged assault.

CONCLUSION

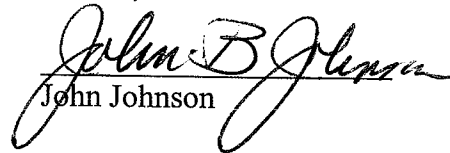
FOR THIS REASON, Defendants respectfully request this Court to preclude the use of the Lasher Rush Associates 2002 Audit.

Dated: April 8, 2008

Yours respectfully,

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